IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SECOND DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 20437 of 1995

Between:

M/s Transgene Biotik Ltd., Plot
No.68/69/70,Anrich Industrial
Estate, I.D.A.Bollaram, Medak District.
Rep. by its Managing Partner Sri K.Koteswara Rao

..... PETITIONER

AND

1.The A.P.State Electricity Board, rep. by
its Secretary, Vidyut Soudha, Somajiguda
Hyderabad.

2.The Superintending Engineer, Operation
Circle, APSEB, Medak District.

3.The Assistant Divisional Engineer,
(Operation) APSEB, Bollaram of
Jinnaram Mandal, Medak district.

(R3 dismissed for default as per Court order dated 20-7-2000)

---RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ or an order or a direction more particularly one in the nature of Writ of Mandamus declaring assessment notice issued by the 3rd respondent in Lr.No.ADE/OP/BLR/D.No.387/95, dated 25-8-1995 as highly illegal, arbitrary, unjust void and violative of principles of nature justice and terms and conditions of supply of APSEB.

Counsel for the Petitioner: MR.D.V.NAGARJUNA BABU

Counsel for the Respondents: SMT.M.VINOBHA DEVI ,STANDING COUNSEL FOR APSEB

The Court made the following :

ORDER

Heard the learned counsel for the petitioner and also the learned Standing Counsel appearing on behalf of the respondents.

The petitioner seeks to assail by way of Writ of Mandamus the impugned assessment notice, dated 25-8-1995, as bad and illegal.

The main ground on which the petitioner rests its claim is that the respondent issued a feasibility certificate on 1-6-1993 and also sanction power initially on 14-7-1993. Further, a revised sanction order was also issued on 28-10-1993 followed by the approval for issue of feasibility certificate of load dated 24-5-1993. That apart, on 8-6-1994 H.T. agreement was executed by the petitioner. Though the said supply was not provided, the petitioner however, by using generator getting the supply and hence the present impugned demand issued is wholly unsustainable and the same was issued without taking into consideration the various facts and circumstances as pointed out. This Court at the inception

passed a comprehensive order while granting interim direction to the effect that the petitioner has already applied for H.T. power supply connection for which it has already executed the agreement and deposited necessary amounts towards service line charges. However, the A.P.S.E. Board has given a temporary connection pending the H.T. connection. The contention of the petitioner is that it being a H.T. power consumer, the notice dated 25-8-1995 would not cover the malpractice stipulated by the Board. Since the petitioner is already in the process of getting H.T. power connection, it is a fit case to suspend the operation of the notice. Accordingly, there shall be a direction to the respondents to restore the power supply to the petitioner, pending further orders.

Having considered the submissions made and also on perusal of the record, it is seen that there is no dispute about the factum that the petitioner is a H.T. power consumer and all these aspects have not been taken into consideration before issuing the impugned assessment. In view of the same, it is felt more desirable that the respondent to pass a fresh order after taking into consideration the reasons pointed out by the petitioner and especially the existence of H.T. connection. In the circumstances, the impugned assessment is set aside and in view of the fact that the impugned notice is only a demand, the petitioner can as well file a detailed explanation.

The Writ Petition is accordingly disposed of permitting the petitioner to file a comprehensive explanation pointing out all these facts and circumstances within a period of three weeks from today and on receipt of which, the respondents shall pass a final order by taking into consideration the reasons and explanation filed by the petitioner after giving notice and opportunity to him. However, it is needless to mention that till the final orders are passed, the respondents shall not proceed with the recovery. No costs.

02-12-2004.

Hsd

Assistant Registrar

To

1.The Secretary A.P.State Electricity Board,

Vidyut Soudha, Somajiguda

Hyderabad.

2.The Superintending Engineer, Operation

Circle, APSEB, Medak District.

3. 2 CD copies.